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SCOTT BOWMAN

FILED
JUL 23 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SCOTT BOWMAN, an individual,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A. and
DOES 1 through 20, inclusive,

Defendants.

Case No.

VERIFIED COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

CV 12 3832

INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote

1 the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq
2 (hereinafter "FDCPA"), to eliminate abusive debt collection
3 practices by debt collectors, to insure that those debt
4 collectors who refrain from using abusive debt collection
5 practices are not competitively disadvantaged, and to promote
6 consistent State action to protect consumers against debt
7 collection abuses.¹

8
9 2. The California legislature has determined that the
10 banking and credit system and grantors of credit to consumers
11 are dependent upon the collection of just and owing debts and
12 that unfair or deceptive collection practices undermine the
13 public confidence that is essential to the continued functioning
14 of the banking and credit system and sound extensions of credit
15 to consumers. The Legislature has further determined that there
16 is a need to ensure that debt collectors exercise this
17 responsibility with fairness, honesty and due regard for the
18 debtor's rights and that debt collectors must be prohibited from
19 engaging in unfair or deceptive acts or practices.²

20 3. SCOTT BOWMAN (hereinafter "Plaintiff"), by Plaintiff's
21 attorneys, brings this action to challenge the actions of
22 JPMORGAN CHASE BANK, N.A., (hereinafter "Defendant JPMORGAN"),
23

24 ¹ 15 U.S.C. 1692(a)-(e)

25 ² Cal. Civ. Code 1788.1(a)-(b)

1 with regard to attempts by Defendants, debt collectors, to
2 unlawfully and abusively collect a debt allegedly owed by
3 Plaintiff, and this conduct caused Plaintiff's damages.

4 4. For the purposes of this Verified Complaint for
5 Damages, unless otherwise indicated, "Defendant" includes all
6 agents, employees, officers, members, directors, heirs,
7 successors, assigns, principals, trustees, sureties, subrogees,
8 representatives and insurers of Defendant(s) named in this
9 caption.
10

11 JURISDICTION AND VENUE

12 5. Jurisdiction of this Court arises pursuant to 28
13 U.S.C. § 1331 and 15 U.S.C. § 1692k(d), and 28 U.S.C. § 1367 for
14 supplemental state law claims.

15 6. This action arises out of Defendants' violations of
16 the following: the Rosenthal Fair Debt Collection Practices
17 Act, California Civil Code §§ 1788-1788.32 (RFDCPA), the Fair
18 Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq.

19 7. Because Defendants do business within the State of
20 California, personal jurisdiction is established.

21 8. Venue is proper pursuant to 28 U.S.C. §1391.
22

23 PARTIES

24 9. Plaintiff is a natural person who resides in the
25 County of Contra Costa, State of California and is obligated or

1 allegedly obligated to pay a debt and is a "consumer" as that
2 term is defined by 15 U.S.C. § 1692a(3).

3 10. Plaintiff is a natural person from whom a debt
4 collector sought to collect a consumer debt which was due and
5 owing or alleged to be due and owing from Plaintiff and is
6 "debtor" as that term is defined by California Civil Code §
7 1788.2(h).

8 11. Plaintiff is informed and believes, and thereon
9 alleges, that Defendant JPMORGAN is a company operating from the
10 City of Columbus, State of Ohio.

11 12. Plaintiff is informed and believes, and thereon
12 alleges, that Defendants are persons who use an instrumentality
13 of interstate commerce or the mails in any business the
14 principal purpose of which is the collection of any debts, or
15 who regularly collects or attempts to collect, directly or
16 indirectly, debts owed or due or asserted to be owed or due
17 another and are "debt collectors" as that term is defined in 15
18 U.S.C. § 1692a(6).

19 13. Plaintiff is informed and believes, and thereon
20 alleges, that Defendants are not attorneys or counselors at law
21 and are persons who, in the ordinary course of business,
22 regularly, on behalf of themselves or others, engages in debt
23 collection as that term is defined by California Civil Code §
24
25

1 1788.2(b), and are "debt collectors" as that term is defined by
2 California Civil Code § 1788.2(c).

3 14. This case involves money, property or their
4 equivalent, due or owing or alleged to be due or owing from a
5 natural person by reason of a consumer credit transaction. As
6 such, this action arises out of a "consumer debt" and "consumer
7 credit" as those terms are defined by Cal. Civ. Code §
8 1788.2(f).
9

10 **FACTUAL ALLEGATIONS**

11 15. At all times relevant, Plaintiff is an individual
12 residing within the State of California.

13 16. Plaintiffs are informed and believe, and thereon
14 allege, that at all times relevant Defendants conducted business
15 in the State of California.

16 17. On or about May 12, 2006, Plaintiff obtained a loan
17 from Washington Mutual or its assignor for the purpose of
18 purchasing a single family home which Plaintiff occupied with
19 his family. As such, this loan was a purchase money mortgage
20 and Plaintiff had no personal liability under California Code of
21 Civil Procedure 580(b).
22

23 18. On October 10, 2008, Plaintiff's home was sold at
24 trustee sale. Thereafter, JPMORGAN and/or its assignee
25 attempted to collect from Plaintiff approximately \$100,000.00 on
a debt which was not due.

1 19. Plaintiff, through his counsel, wrote to JPMORGAN or
2 its assignees. They, however, persist in attempting to collect
3 on a debt not owing.

4 20. These financial obligations were primarily for
5 personal, family, or household purposes and are therefore
6 "debt(s)" as that term is defined by 15 U.S.C. §1692a(5).
7

8 21. On or about September 20, 2011, Defendant JPMORGAN
9 contacted Plaintiff in writing to collect the debt. Defendant
10 misrepresented to Plaintiff that it is owed \$104,326.72 when, in
11 fact, Plaintiff owes nothing.

12 22. This writing to Plaintiff was a "communication" as
13 that term is defined by 15 U.S.C. §1692a(2), a "debt collection"
14 as that term is defined by California Civil Code §1788.2(b). As
15 such, this action by Defendant JPMORGAN violated 15 U.S.C.
16 §§1692e. Because Defendant JPMORGAN'S actions violated 15
17 U.S.C. §§1692e, Defendant JPMORGAN also violated California
18 Civil Code §1788.17.

19
20 **CAUSES OF ACTION CLAIMED BY PLAINTIFF**

21 **COUNT I**

22 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

23 **15 U.S.C. § 1692 et seq.**

24
25 23. Plaintiff incorporates by reference all of the above
paragraphs of this Complaint as though fully stated herein.

1 24. The foregoing acts and omissions of Defendants
2 constitute numerous and multiple violations of the FDCPA,
3 including but not limited to each and every one of the above-
4 cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

5 25. As a result of each and every Defendants' violations
6 of the FDCPA, Plaintiff is entitled to any actual damages
7 pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an
8 amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(1);
9 statutory damages in an amount up to \$1,000.00 pursuant to 15
10 U.S.C. §1692k(a)(2)(A); and, reasonable attorney's fees and
11 costs pursuant to 15 U.S.C. §1692k(a)(3) from Defendants.

12
13 **COUNT II**

14 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

15 **§§ 1788-1788.32 (RFDCPA)**

16 26. Plaintiff incorporates by reference all of the above
17 paragraphs of this Complaint as though fully stated herein.

18 27. The foregoing acts and omissions of Defendants
19 constitute numerous and multiple violations of the RFDCPA.

20 28. As a result of Defendants' violations of the RFDCPA,
21 Plaintiff is entitled to any actual damages pursuant to
22 California Civil Code § 1788.30(a); statutory damages for a
23 knowing or willful violation in the amount up to \$1,000.00
24 pursuant to California Civil Code § 1788.30(b); and reasonable
25

1 attorney's fees and costs pursuant to California Civil Code §
2 1788.30(c) from Defendants.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays that judgment be entered against
5 Defendants for:

6 **FAIR DEBT COLLECTION PRACTICES ACT**

- 7
- 8 • an award of actual damages pursuant to 15 U.S.C.
9 \$1692k(a)(1) in an amount to be adduced at trial, from
10 Defendants;
 - 11 • an award of statutory damages of \$1,000.00, pursuant
12 to 15 U.S.C. § 1692k(a)(2)(A), from Defendants;
 - 13 • an award of costs of litigation and reasonable
14 attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3)
15 from Defendants.

16 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

- 17
- 18 • an award of actual damages pursuant to California
19 Civil Code § 1788.30(a) in an amount to be adduced at
20 trial, from Defendants;
 - 21 • an award of statutory damages of \$1,000.00, pursuant
22 to California Civil Code § 1788.30(b), from
23 Defendants;
- 24
- 25

- an award of costs of litigation and reasonable attorney's fees, pursuant to California Civil Code § 1788.30(c), from Defendants.

TRIAL BY JURY

Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

DATED: June 29, 2012

Respectfully submitted,

DELTA LAW GROUP

BY: 

JIM G. PRICE
Attorneys for Plaintiff
SCOTT BOWMAN


VERIFICATION

I, SCOTT BOWMAN, declare:

I am the Plaintiff in this action. I have read the foregoing document entitled: **VERIFIED COMPLAINT FOR DAMAGES** and know the contents thereof. The same is true of my own knowledge, except as to those matters stated therein on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 10th day of July, 2012, at Brentwood, California.



SCOTT BOWMAN